

RESOLUTION 2013-55

EXTENDING BY 18 MONTHS THE TEMPORARY MORATORIUM IMPOSED IN RESOLUTION 2012-16 AND CONTINUED IN 2012-46, 2013-18, AND 2013-50 PERTAINING TO BOULDER COUNTY'S PROCESSING OF OIL AND GAS DEVELOPMENT APPLICATIONS IN THE UNINCORPORATED COUNTY AND TABLING INDEFINITELY PHASING AMENDMENTS PROPOSED AS PART OF DOCKET DC-12-0003

WHEREAS, in Resolution 2012-16, adopted and effective on February 2, 2012, the Board of County Commissioners of Boulder County ("the Board") adopted a temporary moratorium for a period of six months, until August 2, 2012, and directed the County Land Use Department to not accept, process, or approve any Development Plan Review application for oil and gas operations under Article 4-900 of the Land Use Code ("the Temporary Moratorium") during this period; and

WHEREAS, the Board approved the Temporary Moratorium to allow county staff the time to analyze whether the existing County Comprehensive Plan and county regulations pertaining to oil and gas activities were sufficient to protect the public health, safety, and welfare, and whether an amended Comprehensive Plan and amended regulations were necessary to adequately mitigate impacts; and

WHEREAS, the Board fully specified in Resolution 2012-16 the reasons why it imposed the Temporary Moratorium, including the accelerated development and evolution of the oil and gas industry nationwide and in the Wattenberg Basin in the eastern portion of Boulder County and neighboring Weld County; the rapidly changing technology surrounding oil and gas drilling, involving primarily the controversial method of hydraulic fracturing ("fracking") of horizontally drilled wells; and the widespread, growing public concern over the land use, environmental, and public health impacts of fracking and the associated rapid increase in oil and gas production such as deterioration of air and water quality, questionable waste disposal practices, noxious odor and dust generation, intensification of erosion and other land disturbance impacts, proliferation of industrial-style extraction developments in rural and agricultural areas, increased heavy truck traffic with consequent damage to public roads, aggravation of geologic hazards such as earthquakes, safety concerns related to development in floodplains and floodways, and accelerated consumption of natural resources such as water, open space, productive agricultural land, and plant and wildlife habitat; and

WHEREAS, in enacting Resolution 2012-16, the Board scheduled a follow-up public hearing on the Temporary Moratorium for March 1, 2012, so that the Board could receive public comment on the appropriateness of the Temporary Moratorium and consider whether to terminate, extend, or otherwise amend the Temporary Moratorium; and

WHEREAS, between the Board's adoption of the Temporary Moratorium and the public hearing on March 1, 2012, county staff collected information and held numerous meetings to proceed with the study and analysis directed by the Board under the Temporary Moratorium and worked diligently to prepare and compile substantial background information materials for the Board's review at the public hearing; and

WHEREAS, at a duly noticed public meeting on March 1, 2012, the Board considered the staff materials and background testimony presented by representatives of the County Land Use Department, County Parks and Open Space Department, County Transportation Department, and County Public Health; the Board also considered the comments of many concerned members of the public, spokespersons for environmental groups, the Colorado Attorney General's Office, the University of Colorado's Environmental Engineering program, and other speakers; and

WHEREAS, the Board set a further public hearing for April 16, 2012, at which the Board received updated information from county staff on certain topics raised at the March 1 public meeting and additional testimony that demonstrated serious and legitimate concerns existed regarding the land use, environmental, and public health impacts of future oil and gas operations in the unincorporated county. Based on the information, the Board believed that the responsible state and federal agencies may not have been adequately addressing the impacts of oil and gas development in the county and that the county's existing planning and regulatory efforts in the area were outdated and did not sufficiently protect the public health, safety, and welfare within the scope of the county's legal authority; and

WHEREAS, at the April 16, 2012 public meeting, the Board extended the expiration of the Temporary Moratorium to February 4, 2013, as reflected in Resolution 2012-46, whereby the Board directed county staff, with the assistance of outside consultants, to process appropriate amendments to the Boulder County Comprehensive Plan and to the Boulder County Land Use Code, including consideration of possible transportation impact fees, setbacks from open water sources and other resources, zoning to allow oil and gas operations in areas that would have the least impact, and lighting and noise controls; and

WHEREAS, after the April 16 public meeting on the moratorium extension, county staff developed a first draft of proposed amendments to the Boulder County Comprehensive Plan, denominated as Docket BCCP-12-0001, Boulder County Comprehensive Plan amendments addressing oil and gas operations and development; and after public hearings held on May 16, June 20, and July 18, the Planning Commission approved Docket BCCP-12-0001 on August 15, 2012; and

WHEREAS, following the Planning Commission's August 15, 2012 adoption of Docket BCCP-12-0001, and a joint public study session on prospective oil and gas regulations convened between the Planning Commission and the Board on August 22, 2012, county staff developed a first draft of proposed oil and gas regulatory amendments to the Land Use Code, denominated as Docket DC-12-0003, to implement the Boulder County Planning Commission's direction reflected in Docket BCCP-12-0001; and

WHEREAS, the Planning Commission held duly-noticed public hearings on the proposed regulatory amendments in Docket DC-12-0003 on September 24, October 1, and October 17, 2012; the Planning Commission took official public action to recommend approval of Docket DC-12-0003 on October 30, 2012, certifying the Docket to the Board for ensuing public hearings, consideration, and action; and

WHEREAS, on November 13 and 15, as continued to December 4 and 13, 2012, the Board held duly noticed public hearings on Docket DC-12-0003 as certified to it by the Planning Commission, at which time the Board considered the documents and testimony presented by the Land Use Department staff, and by a large number of members of the public, all as reflected on the official record of the public hearing; and

WHEREAS, at the public hearing on December 4, 2012, the Board took public testimony on the amendments proposed in Docket DC-12-0003 and also on the appropriate length of the Temporary Moratorium (then due to expire on February 4, 2013), and determined in light of that testimony to convene another public hearing to make a decision on the length of the Temporary Moratorium considering the complexity and extent of the proposed regulations and the anticipated administrative demands involved in their implementation, which hearing the Board scheduled for January 24, 2013; and

WHEREAS, at the December 4 public hearing the Board further directed staff to analyze whether additional text amendments would be necessary to implement transportation fees related to oil and gas development and also estimate the permit application fees necessary to administer the Proposed Amendments, and recommend appropriate transportation and application processing fee amounts to the Board for consideration at the January 24, 2013 public hearing; and

WHEREAS, at its continued public hearing on the text of the proposed amendments on December 13, 2012, the Board found that the regulations in Docket DC-12-0003 met the criteria for text amendments contained in Article 16 of the Land Use Code, in that the existing text was in need of amendment, the Proposed Amendments were not contrary to the intent and purpose of the Land Use Code, and the Proposed Amendments were in accordance with the Boulder County Comprehensive Plan, all as set forth in and supported by the record of the public hearing, and the Board thus concluded that the proposed amendments in Docket DC-12-0003 should be approved for incorporation into the Land Use Code, to be effective on the Temporary Moratorium termination date specified in Resolution 2012-46, as that termination date might be extended at a public hearing on January 24, 2013; and

WHEREAS, the Board's decisions and direction to staff at the December 13, 2012 continued public hearing were memorialized in Resolution 2012-142, duly adopted and signed December 20, 2012; and

WHEREAS, on January 24, 2013, the Board held a public hearing to review results of the final Oil & Gas Roadway Impact Study prepared by the county's consultant on road impacts and associated fees, and considered the setting of appropriate transportation fees for oil and gas activities in the unincorporated county, and also considered the adequacy of the length of the Temporary Moratorium in terms of finalizing the regulations approved as noted in Resolution 2012-142 and developing a plan to administer those regulations, at which hearing numerous members of the public testified; and

WHEREAS, at the January 24, 2013 hearing, staff presented an Implementation Work Plan as further described in the Staff Recommendation of the same date, which stated that for the county staff to be equipped to start processing oil and gas development applications under the adopted regulations, many tasks still needed to be accomplished, including development of a Request for Qualifications and hiring of outside expertise; staff training; coordination with involved departments and agencies such as affected fire protection districts; preparation of application materials, handouts, and information for the public; development and adoption of planning and permit fees, as well as inspection schedules; updating internal databases and tracking systems; coordination with industry on submission of applications; and coordination with the Colorado Oil and Gas Conservation Commission ("COGCC") to harmonize new state rules with new county regulations; and

WHEREAS, the county staff thus recommended to the Board at the January 24, 2013 public hearing that the adopted regulations not be effective until June 10, 2013 and the Temporary Moratorium be extended until that date to allow the staff sufficient time to prepare to accept applications under the new regulations and to ensure that applications would be processed as effectively and efficiently as possible; and

WHEREAS, based on the information and testimony presented at the January 24, 2013 public hearing, the Board determined that it was reasonable and appropriate to extend the Temporary Moratorium for the additional time requested by the county staff, and directed staff to propose appropriate and legally defensible fees addressing the impacts of oil and gas development on the county road system for further consideration and possible adoption by the Board prior to the new expiration date of the Temporary Moratorium on June 10, 2013, all as reflected in Resolution 2013-18; and

WHEREAS, on May 16, 2013 the Board held a duly noticed public hearing to review staff's recommended impact fees for oil and gas activity in the unincorporated county and associated Land Use Code text amendments to the transportation sections of Article 12, at which hearing numerous members of the public testified in favor of an impact fee and the associated regulations, and the Board adopted certain impact fees as well as the proposed companion text amendments to Article 12, all as reflected in Resolution 2013-49; and

WHEREAS, in response to numerous requests from the public for an opportunity to address the Board on the potential public health and safety impacts of oil and gas development in Boulder County, the Board also scheduled a hearing for May 16, 2013 to take public testimony; at the May 16, 2013 hearing, much of the public testimony related to a desire to continue the Temporary Moratorium for an additional two years because continued profound and unresolved concerns exist as to the impact of oil and gas development in the county even if it were subject to the county's newly developed regulations, especially given the widespread uncertainty regarding the possible negative public health impacts of fracking operations in developed and populated areas; and after hearing the public testimony on May 16, 2013, the Board indicated a desire to consider the written and verbal testimony received and give staff further direction at a public meeting on May 21, 2013; and

WHEREAS, at the public meeting on May 21, 2013, the Board directed staff to continue analyzing options for amending the Land Use Code in a manner that may address the public health and safety concerns expressed by the public at the May 16, 2013 hearing; one specific option the Board asked staff to explore was an option for phased development of oil and gas to be put in place prior to the June 10 expiration of the Temporary Moratorium; and

WHEREAS, at a duly noticed joint session of Planning Commission and the Board of County Commissioners on June 5, 2013, the two bodies heard a staff presentation on options for phasing in oil and gas development, to be implemented through text amendments to Article 12 of the Land Use Code; both bodies listened to several hours of public testimony, all of which related to continued public health concerns about oil and gas development, the concern that any phasing plan would be inadequate for addressing these concerns, and the desire to continue the Temporary Moratorium; and, after the Board left the hearing room, Planning Commission deliberated and ultimately voted 4-3 against recommending that the Board adopt a phasing program; furthermore, Planning Commission unanimously requested the Board consider further extending the Temporary Moratorium; and

WHEREAS, County Commissioner Gardner was unable to attend the public hearing on June 5th due to a previously planned trip out of the country; and

WHEREAS, the Board convened a duly noticed public meeting on June 6, 2013, which meeting Commissioner Gardner was again unable to attend due to the same previously planned trip, and at which meeting the Board indicated the need for additional time to absorb the extensive information provided before it would be in a position to take further action regarding county regulation of oil and gas development, given the extensive public testimony received at the May 16th and June 5th hearings, hundreds of written comments received prior to those hearings, and the Planning Commission actions at the June 5th hearing, as well as a strong preference that major decisions on Boulder County regulation of oil and gas development be considered and acted on by the full Board; and

WHEREAS, to allow for Commissioner Gardner to participate in further deliberations and action, at the June 6th meeting the Board scheduled a subsequent meeting of the full Board for the soonest feasible date after her return, June 18th, and consequently the Board voted to table the phasing amendments until June 18, 2013 and by Resolution 2013-50 extended the Temporary Moratorium to June 24, 2013; and

WHEREAS, also on June 6, 2013, after presentation by the Land Use Department Director at a duly noticed public business meeting, the Board approved various permit and inspection fees as a reasonable and appropriate general approximation of the direct and indirect costs of administering the recently adopted regulations in Article 12 of the Land Use Code, all as reflected in Resolution 2013-54; and

WHEREAS, the Board held a duly noticed public hearing on June 18, 2013, on the topic of further extending the Temporary Moratorium, at which it considered some 1,100 written comments, the majority of which were similar to those raised at the public hearings on May 16 and June 5, and at which hearing Commissioner Gardner affirmed that since returning she had listened to the tapes of the hearings she missed on June 5th and 6th; and

WHEREAS, at the June 18th public hearing the Board made a series of statements and findings as summarized below; and

WHEREAS, since December 20, 2012, when the Board signed and adopted Resolution 2012-142 approving updated oil and gas regulations on air and water quality among many other subjects, the Board has received continually updated information regarding the potential harmful effects of oil and gas development on public health, safety, and welfare that justify further study and consideration, and while this new information indicates that the regulations recently adopted were a necessary step toward protecting public health and the environment, it also indicates that the adopted regulations may not be sufficiently comprehensive or restrictive to adequately protect public health and safety; and

WHEREAS, air quality and the effect of emissions of pollutants is of major concern to public health, safety and welfare; and oil and gas facilities are known to generate numerous types of air pollutants, including volatile organic compounds (“VOCs”), diesel particulate matter, silica dust, methane and other harmful pollutants such as benzene; and

WHEREAS, the United States Environmental Protection Agency (the “EPA”) recognizes that the health effects of VOCs include eye, nose, and throat irritation; headaches, loss of coordination; nausea; damage to liver, kidney, and central nervous system; cancer in

animals; and some VOCs are suspected or known to cause cancer in humans; furthermore, VOCs and nitrogen oxides together combine in the presence of sunlight to form ground-level ozone or “smog”, a cause of respiratory inflammation and irritation, a trigger for asthma symptoms, and premature mortality; and

WHEREAS, the health effects associated with benzene include acute and chronic nonlymphocytic leukemia, acute myeloid leukemia, chronic lymphocytic leukemia, anemia, and other blood disorders and immunological effects; and

WHEREAS, the EPA has already designated nine counties in Colorado’s Front Range including Boulder County as nonattainment areas due to high levels of ozone, a designation for areas out of compliance with the national health-based primary or secondary ambient air quality standard for criteria pollutants under the Clean Air Act’s National Ambient Air Quality Standards; and

WHEREAS, CDPHE’s Air Pollution Control Division has conducted five stakeholder meetings over the past few months to review proposed regulatory changes that are anticipated to be presented to the Colorado Air Quality Control Commission (“AQCC”) in August, with the proposed changes seeking to improve the effectiveness of Colorado’s air quality program, address the growth in oil and gas development, and reduce oil and gas emissions in Colorado; specifically, revisions under consideration would address the control of emissions including ozone precursors by further regulating storage tanks, capturing emissions, and reducing fugitive emissions by increasing identification and repair of leaks; and

WHEREAS, at an air quality rulemaking stakeholder meeting in late January 2013, the Colorado Department of Public Health and Environment (“CDPHE”) reported that in 2008 oil and gas sources accounted for 47% (454.6 tons per day) of all VOCs emitted statewide and that more than half of these statewide emissions (240 tons per day) were emitted in the Front Range; and

WHEREAS, the CDPHE stakeholder process includes representatives from industry, environmental organizations and public entities, among others, and the state rule development process has the potential to develop information that could lead to improvements in the county’s regulatory language and implementation; and

WHEREAS, results of a study released in January of 2013 by the National Oceanic and Atmospheric Administration found that nearly half of ozone-forming pollutants in the Town of Erie, a substantial portion of which lies within Boulder County, come from oil and gas drilling activity; and

WHEREAS, results released in February of 2013 of the first phase of a study by the Utah Department of Environmental Quality on the Uinta Basin winter ozone and air quality concluded that 98-99% of VOC emissions and 57-62% of nitrogen emissions in that basin came from oil and gas production, with natural gas production yielding the highest percentage of VOC emissions and in that area recorded ozone levels were nearly double the federal health standard; and

WHEREAS, in April 2013, the Wyoming Department of Health released results of a study of possible health effects linked with higher amounts of ground-level ozone in Sublette County, an area where oil and gas development has increased dramatically recently, using 2008-2011 data, which indicated that for every 10 parts per billion increase in the eight-hour maximum

ground-level ozone there was a 3% increase in local health clinic visits due to respiratory-related complaints the following day; in addition, EPA designated Sublette County as nonattainment for ozone last year for the first time ever; and

WHEREAS, results of a study presented to the Regional Air Quality Council in May 2013 compared emissions of VOCs and nitrogen in the Front Range of Colorado in 2008 to projected emissions in 2018, and found that while all other sources of such emissions were projected to decrease, emissions attributable to oil and gas production are projected to increase dramatically, both in absolute terms and as a percentage of total VOCs emitted; and

WHEREAS, the EPA has recently proposed updates, to be finalized later in 2013, to its 2012 VOC performance standards for storage of oil and natural gas during the production process, before such liquids are moved to a pipeline, sold, or disposed of; and which EPA recognizes is a source of several toxic air pollutants, including benzene and VOCs; and

WHEREAS, the uncertain risks of fracking to public health, safety and welfare are of such concern to numerous other agencies that multiple studies are currently underway, including an EPA analysis of fracking's potential impact on drinking water resources (including public water supplies); a National Science Foundation review of the health impacts of fracking in conjunction with the University of Colorado; a CDPHE study in tandem with Colorado State University of the health effects of oil and gas emissions in the Front Range; and the Geisinger Health System of Pennsylvania study on the health impacts of fracking; and the New York Department of Health of the health impacts of fracking; and

WHEREAS, local governments also have authority to enact regulations protective of public water supplies and to impose water quality standards and water body setbacks associated with oil and gas development; and

WHEREAS, COGCC received in 2012 approximately 400 reports of oil and gas spills associated with oil and gas wells; these spills included 63 instances which had groundwater impacts, 22 spills which had surface water impacts, and a total of 66 spills which required ground or surface water remediation; further, 94 spills required contaminated soil to be excavated, and 32 other spills that required further soil remediation; and

WHEREAS, C.R.S. § 25-7-128 grants local governments, including statutory counties, express authority to enact local air pollution resolutions or ordinances, which include emission control regulations that are the same as or more restrictive than state emission control regulations; and

WHEREAS, arising out of the express authority granted statutory counties by C.R.S. § 25-7-128 to regulate air quality, as well as its general police power authority to protect public health, safety, and welfare, the Board may impose or extend a temporary moratorium of limited duration necessary to gather additional information to facilitate effective governmental decision making on appropriate regulations; and

WHEREAS, if applications requesting approval to conduct oil and gas exploration, development, and production activities within the unincorporated county are submitted prior to the county having adequate time to conduct the appropriate studies, review results of other studies and any resulting changes in state or federal regulations, and consider and process any indicated regulatory amendments regarding air quality, irreparable harm will be done to the public health, safety, and welfare; and

WHEREAS, extending the Temporary Moratorium to review and revise existing air pollution regulations in Boulder County pursuant to the express power granted to the Board by C.R.S. § 25-7-128 is necessary to prevent irreparable harm to public health, safety, and welfare because of both the known and unknown hazards caused by emissions of ozone precursors, now directly linked to oil and gas development through a consensus of recently concluded and ongoing studies performed by governmental agencies at both the federal and state levels; and

WHEREAS, further delay in accepting applications for oil and gas operations is reasonable, appropriate, and necessary given the complexity of technical information critical for the Board to make informed decisions to protect the public and the environment in a manner harmonized with those of the federal and state governments; and

WHEREAS, such regulations are necessary to protect residents of Boulder County from uses of property that are hazardous and injurious to health, safety, and welfare and to prevent activities and conditions in the county that create an unreasonable risk of harm to others, a concern that has been expressed by numerous county citizens through testimony and written correspondence; and

WHEREAS, the Board estimates that the time needed for staff to analyze the studies performed by governmental agencies at both the federal and state levels, to perform the prerequisite studies, and to analyze regulatory amendments that may be necessary to protect public health, safety, and welfare is approximately 18 months; and

WHEREAS, the Board notes the potential for further changes in state law during the 2014 legislative session, the potential for rulemaking changes by the COGCC, and the potential for changes in state law as a result of the resolution of pending cases concerning local governmental authority to regulate certain aspects of oil and gas development, all of which may further clarify the bounds of local regulatory jurisdiction; and

WHEREAS, the Board notes the potential for further changes in air quality regulations at the state level as a result of the anticipated 2013 AQCC rulemaking as well as recent changes to federal storage tank requirements that have not yet taken effect; these changes have the potential to develop information that could lead to improvements in county regulatory language and implementation, as well as amendments to better harmonize with the state and federal regulatory regime; and

WHEREAS, the Local Government Land Use Control Enabling Act, C.R.S. §§ 29-20-101 et seq., provides the county with the broad authority to plan for and regulate the use of land in order to provide for orderly development and a balancing of basic human needs of a changing population with legitimate environmental concerns, all in a manner consistent with constitutional rights; and

WHEREAS, the Local Government Land Use Control Enabling Act authorizes each local government within its respective jurisdiction to plan for and regulate the use of land by, among other actions, regulating development and activities in hazardous areas; protecting lands from activities which would cause immediate or foreseeable material danger to significant wildlife habitat and would endanger a wildlife species; preserving areas of historical and archaeological importance; regulating the use of land on the basis of the impact thereof on the community or surrounding areas; and otherwise planning for and regulating the use of land so as

to provide planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights; and

WHEREAS, the Board believes it has not only the right but the responsibility to plan for and regulate the use of land for the purposes laid out in the Local Government Land Use Control Enabling Act as well as those purposes specified in other applicable state and federal statutes and common law grants of authority, to best protect and promote the health, safety, and general welfare of the present and future inhabitants of Boulder County and to guide future growth, development, and distribution of land uses within Boulder County; and

WHEREAS, the Colorado Oil and Gas Conservation Act, C.R.S. §§ 37-60-101 et seq., declares that it is in the public interest to foster the responsible, balanced development, production, and utilization of the natural resources of oil and gas in the State of Colorado in a manner consistent with protection of public health, safety, and welfare, including protection of the environment and wildlife resources; and

WHEREAS, the Colorado Oil and Gas Conservation Act grants the COGCC authority to adopt statewide rules and regulations concerning the development and production of oil and gas resources and the COGCC has done so; and

WHEREAS, the Colorado Oil and Gas Conservation Act and the rules promulgated thereunder provide that neither the Act nor the regulations are intended to establish, alter, impair, or negate the authority of local and county governments to regulate land use related to oil and gas operations; and

WHEREAS, Colorado courts have recognized on several occasions that the Colorado Oil and Gas Conservation Act does not expressly or impliedly preempt all aspects of a county's authority to enact regulations applicable to oil and gas development and operational activities within the county, and thus the county's regulations pertaining to matters mentioned in the Colorado Oil and Gas Conservation Act are legal and valid as long as their express or implied conditions do not irreconcilably conflict with state law on the basis of operational conflicts that materially impede or destroy the state's interest; and

WHEREAS, the U.S. Supreme Court and the Colorado Supreme Court recognize that temporary moratoria of reasonable duration are often employed to preserve the status quo in a particular area while developing a long-term plan for regulation and development; indeed, in countering the incentive of property owners to develop their property quickly to avoid the consequences of an impending land use plan for the jurisdiction, moratoria are a crucial tool for local governments and, therefore, pursuant to express and implied authority granted by the Colorado Revised Statutes and multiple Colorado and federal appellate decisions upholding temporary moratoria on land use applications while amendments are considered, the Board has the legal authority to adopt a temporary moratorium in this situation; and

WHEREAS, the Board acknowledges the existence of oil and gas mineral property rights within its unincorporated areas and that owners of those interests, at the expiration of the Temporary Moratorium, may develop those interests as permitted by then applicable federal, state, and county laws and regulations; however, the Board understands that these minerals will remain in place during the duration of a moratorium and that they will be available for future resource development, and thus a limited delay in extraction is legal, necessary, and appropriate when balanced against the Board's fundamental duty as elected officials to protect public health,

safety, welfare, and the environment from potential adverse impacts of oil and gas exploration and development, and to minimize potential land use conflicts between those activities and current or planned land uses; and

WHEREAS, in light of the foregoing, circumstances warrant the immediate enactment of this Resolution extending the Temporary Moratorium for 18 months to protect the public health, safety, and welfare and the environment.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Boulder County as follows:

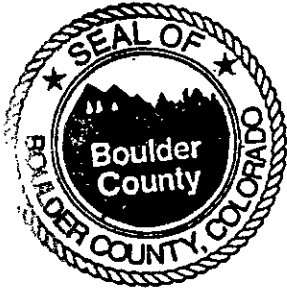
1. County staff shall analyze whether the existing county regulations pertaining to air quality standards and siting and setback regulations for oil and gas operations are sufficient to protect the public health, safety, and welfare and whether amending such regulations pursuant to the county's statutory authority is necessary to adequately mitigate the impacts and hazards associated with oil and gas development.
2. Because of the extensive work staff will need to undertake, the serious and profound concerns of county citizens about the potential health and safety hazards presented by future oil and gas development in the county, the additional health and safety information that will become available in the near future through scientific study of oil and gas operations, and potential federal and state legal and regulatory changes that may impact county regulatory authority related to oil and gas operations, extending the Temporary Moratorium until January 1, 2015, is reasonable and necessary to protect the public health, safety, and welfare of the county and prevent irreparable harm.
3. In addition, county staff shall consider and develop a full range of tools and responses available to the county to address the impacts of oil and gas operations on air quality, including the following staffing and programs which shall be presented to the Board for further direction and final approval within the next three months:
 - a. additional staff or third party consultants necessary to review and process DPR permit applications in a manner that fully implements the requirements of the county's recently adopted regulations;
 - b. additional staff or third party consultants necessary to adequately inspect current and future wells with approved DPR permits;
 - c. additional staff or outside consultants to fulfill Local Government Designee duties;
 - d. a memorandum of understanding with COGCC and any other interested local governments on regulatory matters related to oil and gas development as authorized by the Oil and Gas Conservation Act; and
 - e. formation of an advisory group on scientific and technical issues to help inform future county decisions on oil and gas development; and
 - f. completion of air and water quality sampling prior to additional oil and gas development.
4. Any oil and gas operations conducted without all necessary county approvals may be in violation of the Boulder County Land Use Code or other applicable county regulations.

5. As before, the Temporary Moratorium does not apply to the following:
- a. Any complete application for oil or gas exploration, development, or production currently being processed by the Land Use Department, which may continue to be processed and reviewed as provided in the Land Use Code.
 - b. Any application for oil or gas exploration, development, or production already approved by the Land Use Department prior to the effective date of this Resolution where such approval is validly maintained thereafter.
 - c. Development that possesses either a statutory or common law vested right.
 - d. Minor modifications to existing permits.

A motion to this effect was made at the June 18th public meeting by Commissioner Domenico, seconded by Commissioner Gardner, and passed by a 3-0 vote of the Board.

BE IT FURTHER RESOLVED by the Board of County Commissioners of Boulder County that Docket DC-12-0003 dealing with text amendments to Article 12 of the Land Use Code to require phasing of oil and gas development, as presented to the joint session of Planning Commission and the Board on June 5, 2013, is hereby tabled indefinitely. A motion to this effect was made at the June 18th public meeting by Commissioner Gardner, seconded by Commissioner Domenico, and passed by a 3-0 vote of the Board.

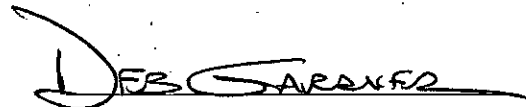
ADOPTED on this 20th day of June, 2013, nunc pro tunc the 18th day of June, 2013.



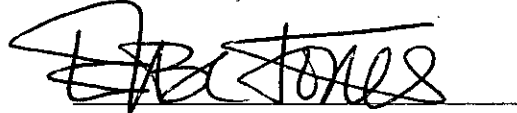
**BOARD OF COUNTY
COMMISSIONERS OF BOULDER
COUNTY:**



Cindy Domenico, Chair

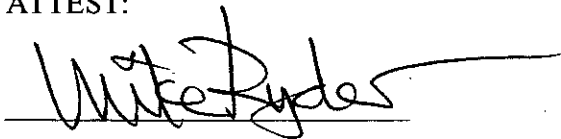


Deb Gardner, Vice Chair



Elise Jones, Commissioner

ATTEST:



Clerk to the Board